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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/782,445 | 02/12/2001 | Josh Goldfoot | | 2473 |

7590 05/17/2005
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| EXAMINER | |
| LE, BRIAN Q | |
| ART UNIT | PAPER NUMBER |
| 2623 | |

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/782,445

Applicant(s)

GOLDFOOT, JOSH

Examiner

Brian Q. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment and Arguments

1. Applicant's amendment filed November 18, 2004, has been entered and made of record.
2. Applicant's arguments with regard to claims 2-5 have been fully considered, but are not considered persuasive because of the following reasons:

Regarding claim 2, the Applicant argues (page 6) that Takasaki does not teach a method of determining a spline knot said spline not being a portion of the circumference of a circle. This is because the Applicant believes that FIG. 5 of Takasaki shows an "arc" is a portion of the circumference of a circle and that not all splines are circles. The Examiner respectfully disagrees. First of all, Takasaki discloses a circular arc and the spline connects circular arc segments (contour line of an arcuate) (column 6, lines 62-63). This is clearly disclosed on column 6 of Takasaki reference. There is no indication to show that spline is a portion of the circumference of a circle in Takasaki's Reference. One skilled in the art cannot assume that spline connects circular arc is a portion of the circumference of a circle since circular arc is not necessary is a complete circle.

For claim 4, the Applicant argues (page 7) that Takasaki does not describe a statistical analysis to determine whether a set of points in a scribble between two points resembles either a curve or a line segment. The Examiner respectfully disagrees. Takasaki clearly teaches a description of a statistical analysis (statistical techniques) to determine whether a set of points in a scribble (column 8, lines 18-20 and FIG. 5) between two points resembles either a curve or a line segment (FIG. 5). In addition, claim 5 is broadly claimed and subjected to broad interpretations. The Applicant is advised to narrow the scope of claim limitation for more specific interpretation. To further assist the Applicant with the guidance with claim language

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interpretations so that the Applicant can add further/more details limitations from the specification to the claims to overcome the prior arts, the Examiner is presenting MPEP, section 2111, Claim Interpretation; Broadest Reasonable Interpretation as follow: "The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.")".

Thus, the rejections of all of the claims are maintained.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 2-3 and 5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 2 and 5, the amended limitation "said spline not being a portion of the circumference of a circle" is not supported in the original disclosure. The Examiner found the definition of spline. However, the concept wherein spline is not being a portion of the circumference of a circle is nowhere to be found. The applicant must provide the support (page and line number) for this amended concept.

Claims not specifically addressed depend from indefinite antecedent claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Takasaki U.S. Patent No. 4,969,201.

Regarding claim 2, Takasaki teaches a method of identifying a spline knot (FIG. 5) in a scribble (drawing data) (column 1, lines 13-14) between a first point in said scribble and a second point in said scribble, said first point not equal to said second point and said first point not equal to said spline knot and said second point not equal to said spline knot (FIG. 3), and said spline not being a portion of the circumference of a circle (circular arc is not a circle) (column 6, lines 61-62), the method comprising the steps of:

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a. Finding a third point on the scribble between said first point and said second point, such that the distance between said third point and a postulated line (line connecting point together) extending through said first point and said second point is equal to or greater than the distance (column 4, lines 40-44) between said postulated line and any other point between said first point and said second point (please refer to FIG. 4 and column 4, lines 28-68 for an extensive coverage of this limitation);

b. Identifying said third point as a spline knot if the distance between said third point and said postulated line meets predetermined criteria (column 5, lines 1-4).

Referring claim 3, Takasaki teaches the method wherein said predetermined criteria includes comparing said distance between said third point and said postulated line to a constant value (column 6, lines 12).

Regarding claim 4, Takasaki discloses A method of determining whether a set of points in a scribble (drawing data) (column 1, lines 13-14), all of said points in said set being between a first point in said scribble and a second point in said scribble, resembles either a curve or a line segment (FIG. 3), the method comprising the steps of:

- a. calculating the distance of at least two points in said set of points from a postulated line extending through said first point and said second point (FIG. 2A, element 104);
- b. concluding that said set of points resembles a line segment if a statistical distribution (statistical techniques) of said distances meets predetermined criteria (predetermined distance e) (column 7, lines 10-28).

For claim 5, please refer back to claim 2 for further explanation.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Contact Information

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Q Le whose telephone number is 571-272-7424. The examiner can normally be reached on 8:30 A.M - 5:30 P.M.

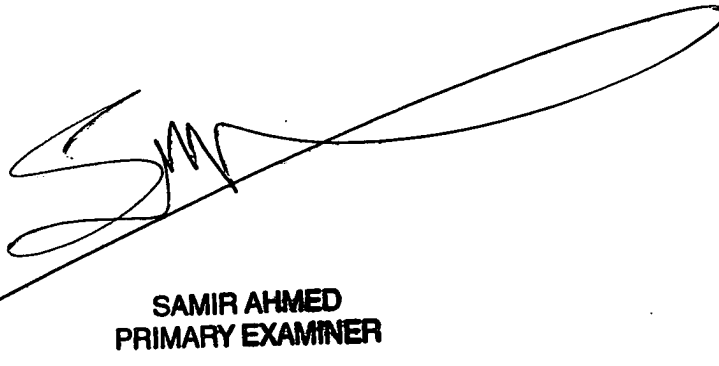
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 571-272-7414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9306 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

BL

May 10, 2005

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a long horizontal stroke extending to the right.

**SAMIR AHMED
PRIMARY EXAMINER**